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In re Application of	:	
Yehuda Et al	:	DECISION ON
Application No.: 10/568,421	:	
PCT No.: PCT/IL2004/000752	:	
Int. Filing Date: 17 August 2004	:	PETITION UNDER
Priority Date: 19 August 2003	:	
Attorney Docket No.: P5767US	:	
For: KIT FOR HOME PREPARATION OF SUSHI	:	37 CFR 1.181

This decision is in response to the "COMMUNICATION IN RESPONSE TO THE NOTICE OF ABANDONMENT," filed on 01 MAY 2008 which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of Abandonment.

BACKGROUND

On 14 February 2006, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1). Applicants, however, did not satisfy the requirement set forth by 35 U.S.C. 371(c)(4) because no executed Declaration or Oath was provided with the transmittal letter at such time.

On 13 September 2006, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.47(a) and (b), identifying the application by the International application number and international filing date, in that it is not executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68. The notice indicated that the items above must be submitted within two (2) months from the date of this notice or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

On 03 April 2008, the DO/EO/US mailed a "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909) which indicated that the application is abandoned because applicant has failed to respond to the notification of MISSING REQUIREMENTS (Form PCT/DO/EO/905) mailed 09/13/2006 within the time period set therein.

On 01 May 2008, petitioner filed the current petition stating that USPTO erroneously mailed the Notice to Banner & Witcoff, Ltd., the wrong law firm. Since the proper law firm, Pearl Cohen Zedek latzer, LLP, did not receive the Notice, applicants could not have responded to it.

DISCUSSION

A review of the file shows that indeed the USPTO erroneously mailed the Notice to the wrong law firm. Accordingly, applicants did have the Notice to respond to it in a timely manner. As a result, the Notice of Abandonment mailed 03 April 2008 was mailed in error.

DECISION

The petition under 37 CFR 1.181 is **GRANTED**. The Notification of Abandonment (PCT/DO/EO/909) mailed 03 April 2008 was in error and is hereby **VACATED**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371 and for issuing a **new Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905)**.



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